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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO,
individually and on behalf of all similarly
situated,

Plaintiffs,

v.

GOOGLE LLC,
Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO SEAL PORTIONS OF
GOOGLE LLC'S RESPONSE TO
PLAINTIFFS' RENEWED REQUEST TO
DEPOSE GOOGLE CEO SUNDAR
PICHAI (DKT. 635)**

Referral: Hon. Susan van Keulen, USMJ

I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Defendant Google LLC (“Google”) respectfully seeks to seal the following portions of Google LLC’s Response to Plaintiffs’ Renewed Request to Depose Google CEO Sundar Pichai (Dkt. 635) (“Response”), which contain Google’s confidential and proprietary information, including details related to Google’s internal projects, data signals, and logs, and their proprietary functionalities. This information is highly confidential and should be protected.

This Administrative Motion pertains to the following information contained in the Response:

Documents Sought to Be Sealed	Portions to be Filed Under Seal	Party Claiming Confidentiality
Google LLC’s Response to Plaintiffs’ Renewed Request to Depose Google CEO Sundar Pichai (Dkt. 635)	Portions Highlighted at: Pages 3:15-16, 3:24, 4:2	Google
Exhibit 2 5/6/22 Twohill Depo Tr. Excerpts	Portions Highlighted at: Pages 7:11, 126:2-3, 126:7, 126:10-16, 127:6, 127:8	Google
Exhibit 3 2/18/22 McClelland Depo Tr. Excerpts	Portions Highlighted at: Pages 28:16-20, 29:3-11, 29:14-17, 30:5, 106:10-13, 107:3, 107:5-15, 107:18-19, 108:5-6, 113:4, 118:2, 118:7, 118:12, 118:15-16, 118:23, 119:12-14	Google
Exhibit 5 11/19/21 Adhya Depo Tr. Excerpts	Portions Highlighted at: Pages 7:17	Google

II. LEGAL STANDARD

The common law right of public access to judicial records in a civil case is not a constitutional right and it is “not absolute.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978) (noting that the “right to inspect and copy judicial records is not absolute” and that “courts have refused to permit their files to serve as reservoirs of . . . sources of business information that might harm a litigant’s competitive standing”). Sealing is appropriate when the information at issue constitutes “competitively sensitive information,” such as “confidential research, development, or

commercial information.” *France Telecom S.A. v. Marvell Semiconductor Inc.*, 2014 WL 4965995, at *4 (N.D. Cal. Oct. 3, 2014); *see also Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002) (acknowledging courts’ “broad latitude” to “prevent disclosure of materials for many types of information, including, but not limited to, trade secrets or other confidential research, development, or commercial information”).

III. THE ABOVE IDENTIFIED MATERIALS SHOULD ALL BE SEALED

Courts have repeatedly found it appropriate to seal documents that contain “business information that might harm a litigant’s competitive standing.” *Nixon*, 435 U.S. at 589-99; *see also Turner v. United States*, 2019 WL 4732143, at *9 (finding good cause to seal “confidential medical information”). Good cause to seal is shown when a party seeks to seal materials that “contain[] confidential information about the operation of [the party’s] products and that public disclosure could harm [the party] by disclosing confidential technical information.” *Digital Reg. of Texas, LLC v. Adobe Sys., Inc.*, 2014 WL 6986068, at *1 (N.D. Cal. Dec. 10, 2014). Materials that could harm a litigant’s competitive standing may be sealed even under the “compelling reasons” standard. *See e.g., Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, 2015 WL 984121, at *2 (N.D. Cal. Mar. 4, 2015) (information “is appropriately sealable under the ‘compelling reasons’ standard where that information could be used to the company’s competitive disadvantage”) (citation omitted).

Here, the Response comprises confidential information regarding highly sensitive features of Google’s internal systems and operations that Google does not share publicly. Specifically, this information provides details related to Google’s internal projects, proposals, and their proprietary functionalities. Such information reveals Google’s internal strategies, system designs, and business practices for operating and maintaining many of its important services while complying with legal and privacy obligations.

Public disclosure of the above-listed information would harm Google’s competitive standing it has earned through years of innovation and careful deliberation, by revealing sensitive aspects of Google’s proprietary systems, strategies, designs, and practices to Google’s competitors. That alone is a proper basis to seal such information. *See, e.g., Free Range Content, Inc. v. Google Inc.*, No. 14-cv-02329-BLF, Dkt. No. 192, at 3-9 (N.D. Cal. May 3, 2017) (granting Google’s motion to seal certain

1 sensitive business information related to Google’s processes and policies to ensure the integrity and
 2 security of a different advertising system); *Huawei Techs., Co. v. Samsung Elecs. Co.*, No. 3:16-cv-
 3 02787-WHO, Dkt. No. 446, at 19 (N.D. Cal. Jan. 30, 2019) (sealing confidential sales data because
 4 “disclosure would harm their competitive standing by giving competitors insight they do not have”);
 5 *Trotsky v. Travelers Indem. Co.*, 2013 WL 12116153, at *8 (W.D. Wash. May 8, 2013) (granting
 6 motion to seal as to “internal research results that disclose statistical coding that is not publically
 7 available”).

8 Moreover, if publicly disclosed, malicious actors may use such information to seek to
 9 compromise Google’s internal systems and data structures. Google would be placed at an increased
 10 risk of cybersecurity threats, and data related to its users could similarly be at risk. *See, e.g., In re*
 11 *Google Inc. Gmail Litig.*, 2013 WL 5366963, at *3 (N.D. Cal. Sept. 25, 2013) (sealing “material
 12 concern[ing] how users’ interactions with the Gmail system affects how messages are transmitted”
 13 because if made public, it “could lead to a breach in the security of the Gmail system”). The security
 14 threat is an additional reason for this Court to seal the identified information.

15 The information Google seeks to redact is the minimal amount of information needed to
 16 protect its internal systems and operations from being exposed to not only its competitors but also to
 17 nefarious actors who may improperly seek access to and disrupt these systems and operations. The
 18 “good cause” rather than the “compelling reasons” standard should apply but under either standard,
 19 Google’s sealing request is warranted.

20 **IV. CONCLUSION**

21 For the foregoing reasons, Google respectfully requests that the Court seal the identified
 22 portions of the Response.

23 DATED: August 4, 2022

24 QUINN EMANUEL URQUHART &
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25 By /s/ Andrew H. Schapiro

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